



State of Tennessee Department of Children's Services

## **Administrative Policies and Procedures: 20.58**

### **Subject: Donation Of Organs, Tissue or Body of Deceased Child/Youth for Use in Medical Research or for Transplantation**

Supersedes: None

Local Policy: No

Local Procedures: No

Training Required: No

Approved by:

Effective date: 03/01/04

Revision date:

### **Application**

To All Department of Children's Services Program Operations Employees, Juvenile Justice Employees and DCS Legal Counsel

**Authority:** TCA §§ 37-2-415(a)(17), 37-2-416, 37-5-106, 68-30-102, 68-30-104, 68-30-114, 68-30-115

### **Policy**

DCS has no authority to determine whether organs, tissues or the body of a deceased child are donated for medical research or transplantation. Where a child is in DCS custody and is hospitalized, and the attending physician caring for the child has stated that circumstances exist for donation of organs, tissue, or body to medical research and/or for transplantation, DCS will assist in notifying the appropriate persons so that the decision can be made in a timely manner and in compliance with applicable law. This policy shall also be followed in conjunction with DCS Policies [20.57, Do Not Resuscitate Orders and Removal of Life Support](#), [20.29, Death of Child/Youth or DCS Employee](#) and [20.56, Autopsy of Deceased Child/Youth](#).

### **Procedures**

#### **A. Child in State custody but not guardianship**

When a child is in State custody but not guardianship and:

1. The child is hospitalized, and
2. The hospital or an organ procurement agency has questioned whether, upon the child's death, permission

would be granted to donate organs, tissue, or the child's body for purposes of medical research and/or for transplantation, the DCS Regional Health Unit Nurse in the child's home county region (with assistance from other DCS personnel including the Home County Case Manager "HCCM" as appropriate) must take the following action:

- a) Make clear to hospital personnel and/or the organ procurement agency that DCS has no authority to make this decision;
- b) Immediately notify the DCS Director of Medical and Behavioral Services of the situation;
- c) If the Regional Health Unit Nurse, in consultation with appropriate DCS staff, is aware that the child expressed a desire or a refusal to give all or any part of his or her body for purposes of research or transplantation upon death, the Regional Health Unit Nurse must communicate this information, including the age of the child when he or she expressed this intention, to the attending physician or organ procurement agency; and the family members as identified in Section A, 2,d);
- d) The Regional Health Unit Nurse, with assistance from other DCS personnel as appropriate, must, if requested, provide the attending physician, his/her designee and/or an organ procurement agency with any contact information for the child/youth's parent(s), all adult siblings, grandparent(s); and legal guardian, if any;
- e) The Regional Health Unit Nurse, with assistance from other DCS personnel as appropriate, must immediately and diligently attempt to contact these persons and place them in contact with the attending physician or his/her designee;
- f) It is the responsibility of the hospital to follow appropriate procedures to discuss donation of organs/tissue or body for purposes of medical research or transplant. DCS staff should not initiate the request for donation, or discuss donation issues with the child's family or guardian;
- g) The adjudication that brought the child into DCS custody is irrelevant to this policy, as the parent(s) authority to donate all or part of their deceased child's body is statutory. This policy applies even when the Court has ordered that DCS shall have authority to make medical decisions or even when the Court has appointed a *guardian ad litem* to make medical decisions or

otherwise rendered decisions concerning resuscitation and removal of life support pursuant to DCS Policy [\*20.57, Do Not Resuscitate Orders and Removal Of Life Support.\*](#)

**B. Child in full guardianship**

When a child is in full guardianship (i.e., termination of parental rights granted on both parents):

1. The child is hospitalized, and
2. The hospital or an organ procurement agency has questioned whether, upon the child's death, permission would be granted to donate organs, tissue, or the child's body for purposes of medical research and/or for transplantation, the DCS Regional Health Unit Nurse in the child's home county region (with assistance from other DCS personnel including the Home County Case Manager "HCCM" as appropriate) must follow the procedures set forth in Sections A, 2, a) and b) and:
  - a) Inform the hospital or organ procurement agency that parental rights have been terminated and that the child is in full guardianship of DCS;
  - b) If the Regional Health Unit Nurse, in consultation with appropriate DCS staff, is aware that the child expressed a desire or a refusal to give all or any part of his or her body for purposes of research or transplantation upon death, the Regional Health Unit Nurse must communicate this information, including the age of the child when he or she expressed this intention, to the attending physician or organ procurement agency and the family members as identified in Section B, 2, c);
  - c) The Regional Health Unit Nurse, with assistance from other DCS personnel as appropriate, must, if requested, provide the attending physician, his/her designee and/or an organ procurement agency with any contact information concerning any adult siblings or grandparents of the child (See *TCA 68-30-115*), and any other contact information requested;
  - d) The Regional Health Unit Nurse, with assistance from other DCS personnel as appropriate, must immediately and diligently attempt to contact these persons and place them in contact with the attending physician or his/her designee;
  - e) It is the responsibility of the hospital to follow appropriate procedures to discuss donation of organs/tissue or body for purposes of medical research or transplant. DCS

staff should not initiate the request for donation, or discuss donation issues with the child's family;

- f) The Regional Health Unit Nurse must inform a DCS lawyer in the region of the potential need to obtain a *guardian ad litem* to assist the Court with any decision concerning donation;
- g) If the child has no adult siblings or grandparents, and there is no indication that the child, when at least eighteen years old, expressed a desire or refusal to give all or any part of his or her body for purposes of research or transplantation upon death, the Regional Health Unit Nurse must immediately notify a regional DCS lawyer to petition the juvenile court to assign a *guardian ad litem* to assist the Court in making this decision. DCS will not be involved in this decision.
- h) If Section B, 2, g) applies, and, prior to hospitalization, the child was placed with prospective adoptive parents or foster parents, the regional DCS lawyer must ensure that such persons receive notice of any hearings pursuant to *Tenn. Code Ann. §§37-2-415(a)(17) and 37-2-416*. Although foster or potentially adoptive parents cannot make the ultimate decision about whether to donate organs, they will have valuable information to assist the court in reaching its decision.

## **Forms**

None

## **Collateral Documents**

*None*

## **Standards**

None

## **Glossary**

<b><i>Term</i></b>	<b><i>Definition</i></b>
<b><i>Guardian Ad Litem:</i></b>	The attorney appointed to represent the best interests of the child in court proceedings. The Guardian Ad Litem's role differs from that of an attorney for the child, in that the child's attorney is bound to do what the child, his client, directs, while the Guardian Ad Litem must represent the child's best interests to the court, even if the child's best interests differ from what the child wants. The Guardian Ad Litem represents the child's best interests in litigation only but is not responsible for the child's care on a daily basis.